

Australia in America's Third Iraq War

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Little more than two months after the start of bombing operations, Australia's new war in Iraq is following the path of its predecessor, a path marked by Australian subordination to American interests, irrelevance to Australian national interests, casual disregard for Iraqi sovereignty and law, increasingly severe restriction of information provided to the Australian public, and an inclination to escalation.

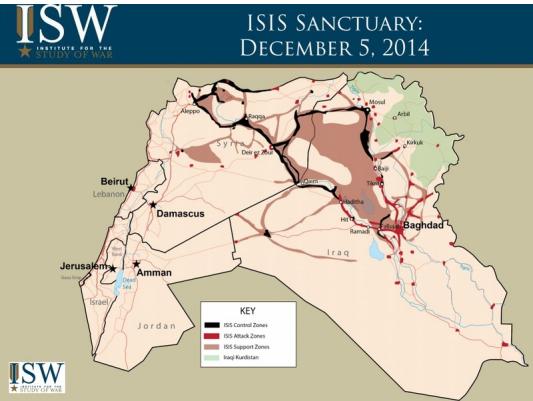
Just as it is America's, this is Australia's third war with Iraq in less than 25 years – following on from the Gulf War following the Iraqi invasion of Kuwait in 1990-1991, and the illegal and destructive invasion and occupation of Iraq between 2003 and 2008. Australia's 600-strong deployment to Iraq this time is as large as Canada's, and is exceeded only by the deployments by the United States and Britain.

Prime Minister Tony Abbott welcomed the war with apocalyptic religious imagery, describing the Islamic State of Iraq and al-Sham as a '[death cult](#)' which '[exults in evil](#)'.¹ The real character of the Australian decision to deploy special forces troops and aircraft to the Middle East for the latest phase of the United States Iraq War is best deduced from the Australian Defence Department's website on the deployment. The last paragraph of the department's imaginatively uninformative Operation Okra web page [advises readers](#) that 'further information about the international effort to combat the ISIL terrorist threat in Iraq can be found at the U.S. Department of Defense website.'²

In compliance with the mantra of alliance integration, distribution of news about all significant decisions about Australia's war in Iraq have been handed over to the United States. The incoherence of US strategic policy, together with the inherent military escalation logic of the Iraq-Syria intervention, and the collapse within Australian politics of the capacity to question presumptions of automatic alignment of Australian and US interests, all collude to guarantee outcomes worse than failure.

According to one of the U.S. State Department's [more bizarre statements](#), Australia is amongst 60 countries that have joined the Global Coalition to Counter ISIL – demonstrating 'the global and unified nature of this endeavor'.³ Like the Bush-era 'Coalition of the Willing', this is a peculiar multilateral structure. Like all of America's post-Cold War 'coalitions' this multilateral formation includes core and peripheral members, with most countries present in name only, and a much smaller number making a visible military contribution. Amongst these, Australia is one of about 15 countries from outside the region collaborating with the United States in the U.S.-led intervention in Iraq precipitated by the summer advances made by the Islamic State insurgency.⁴

As of the end of November, the United States had carried out 819 air strikes against targets in Iraq, and another 10 countries had carried out 157 strikes.⁵ The actual number of militarily active countries in the grandly named Global Coalition is unclear, partly because certain Middle Eastern allies of the U.S. prefer that their participation be less than visible to their citizens. Saudi Arabian, United Arab Emirates and Jordanian air force aircraft participated in at least a small number of bombing operations against Syrian targets in late October.⁶ However, there are no reports of subsequent operations by regional countries, with very few details of those that are known to have taken place.



In an important development, the Financial Times reported in mid-December that the Iraqi Foreign Minister announced that China had offered to assist the Iraqi government with airstrikes against ISIS targets. However, according to the Iraqi Foreign Minister, China had said it would not be joining the multilateral coalition. At the time of writing, no further details or confirmation were available.

[ISW-Iraq – ISIS sanctuary map Dec 2014](#)

The Australian military commitment of 200 special forces and a substantial air task group supported by 400 personnel, while dwarfed by that of the United States sits with a group of NATO allies of the United States – Britain, Canada, Italy, Belgium, Italy and the Netherlands contributing similar forces.-

Table 1: Coalition military forces in the U.S.-led 2014 intervention in Iraq-Syria

United States*	3,000 troops 7,000 contractors USS George H.W. Bush carrier strike group USS Carl Vinson carrier strike group F-15 Eagle, F-16 Falcon, F/A-18 Hornet, F/A-18 Super Hornet, AV-8B Harrier and F-22 Raptor fighter jets B-1 Lancer bomber aircraft EA-6B Prowler & EA-18G Growler electronic warfare aircraft Boeing AH-64 Apache attack helicopters MQ-1 armed Predator, MQ-9 armed Reaper drones
Australia	400 RAAF personnel 200 special forces troops 6 F/A-18 Super Hornets fighter-bombers 1 Boeing 737 AEW&C surveillance aircraft 1 KC-30A refueling plane C-130J Hercules & C-17A Globemaster transport aircraft

Bahrain*	Participation in strike against Syrian targets
Belgium	6 F-16 Falcon fighters 120 supporting troops
Canada	600 Canadian Armed Forces personnel 100 special operations forces 6 McDonnell Douglas CF-18 Hornet fighter-bombers 2 Lockheed CP-140 Aurora surveillance aircraft 1 Airbus CC-150 Polaris refueling tanker C-130J Hercules & CC-177 Globemaster III transport aircraft
Denmark	7 F-16 Falcon fighters 250 supporting troops 1 C-130J Hercules transport plane and associated support staff
New Zealand	10 military advisers
France	9 Dassault Rafale fighter-bomber
Germany	40 troops
Italy	280 troops 4 Panavia Tornado fighter-bombers (reconnaissance only) 1 Boeing KC-767 tanker for in-flight refueling 2 unarmed MQ-1 Predator UAVs
Jordan*	Participation in strike against Syrian targets
Netherlands	6 F-16 Falcon fighters + 2 spare 250 supporting troops 130 trainers for the Iraqi Army 2 Patriot missile batteries and 200 troops in Turkey (border defence).
Spain	300 trainers 6 Patriot missile batteries and 130 troops in Turkey (against cross-border attacks)
Saudi Arabia*	Panavia Tornado fighter bombers participation in strike against Syrian targets
United Arab Emirates	F-16E/F fighter bombers participation in strike against Syrian targets
United Kingdom*	1 Boeing RC-135 Reconnaissance aircraft 8 Tornado GR4 ground attack aircraft 2 armed MQ-9 Reaper UAVs 1 Type 45 destroyer 1 Trafalgar-class submarine (SSN) Special forces including the Special Air Service (SAS) and additional cargo aircraft & air to air tanker aircraft on standby in the area.
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Note: * Only the U.S. and U.K. contingents openly operate frequently in Syria.

Sources: Kenneth Katzman, Christopher M. Blanchard, Carla E. Humud, Rhoda Margesson, Alex Tiersky, and Matthew C. Weed, 'The 'Islamic State' Crisis and U.S. Policy', Congressional Research Service, Report R43612, 12 November 2014, pp.9-10, at <http://fas.org/sgp/crs/mideast/R43612.pdf>; 'Saudi Arabia confirms role in strikes against Islamic State in Syria', Reuters, 23 September 2014, at <http://www.reuters.com/article/2014/09/23/us-syria-crisis-saudi-idUSKCN0HI1Y120140923>.

'2014 American-led intervention in Iraq', Wikipedia [accessed 4 December 2014], at http://en.wikipedia.org/wiki/2014_American-led_intervention_in_Iraq;

Craig Whitlock, 'U.S. begins airstrikes against Islamic State in Syria', Washington Post, 23 September 2014, at http://www.washingtonpost.com/world/national-security/us-begins-airstrikes-against-islamic-state-in-syria/2014/09/22/8b677e26-42b3-11e4-b437-1a7368204804_story.html.

Three steps on the Australian escalator to war

While begun in surprised response to the spectacular gains Islamic State made in its offensive in its summer offensive through northern and central Iraq, there has been a theatrical quality to the moves by the main members of the coalition. The Free Press in high propaganda mode (pace Chomsky) obligingly highlighted the manifestly criminal actions of the Islamic State in both Syria and Iraq, especially towards westerners – while ignoring the role of the US occupation of Iraq in creating key conditions for both the emergence of IS and the enfeebled Iraqi state. The US then led a core group of reliable allies committing forces for 'advice and training' and air interdiction, with earnest promises of 'no ground troops, never', followed by the other shoe dropping as military analysts discovered, to great surprise, that perhaps, ground troops might be needed after all.

The Australian part of this war in Iraq began with classic – indeed brazenly cynical – mission creep in three choreographed moves.

On June 20th, the day the United States deployed 300 military advisors, Australia's new war began with the [announcement](#) of the deployment of 'a small detachment' of Australian Defence Force personnel to [defend the Australian Embassy in the Green Zone of Baghdad](#).⁸ No details of the size or makeup of the army detachment have been made public.

In mid-August, stressing the [strictly humanitarian nature](#) of the ADF mission, the Prime Minister announced that two RAAF C-130 Hercules transport aircraft were to be based at [Al Minhad Air Base](#) in the United Arab Emirates to [carry relief supplies](#) (bottled water, high-energy biscuits, and hygiene packs), to Iraqi Yazidi refugees trapped by IS forces on Mount Sinjar in the far north of Iraq.⁹ After a report that one of the C-130s had come under small arms ground fire a [small contingent of SAS troops](#) and a detachment of elite RAAF Airfield Defence Guards were sent to provide close security for the transport planes, which also operate with USAF fighter protection.¹⁰ Again, the actual size and operational activities of these detachments was not made public.

Finally, on September 15th, Abbott announced the immediate deployment of combat forces to Iraq, made up of an Air Task Group and a Special Operations Task Group, starting with an

initial 600 personnel. Australia is likely to [increase the ground troop component](#) of its Iraq deployment following [President Obama spoke with Prime Minister Tony Abbott](#) on the sidelines of the Beijing APEC Summit in mid-November.¹¹

The first two months of ADF operations

Both the air and ground forces were initially based in the United Arab Republic at the huge Al Minhad Air Base which has been the [command and logistical centre of Australian Middle Eastern and Afghanistan operations](#), under the rubric of Joint Task Force 633, since 2008.¹² Even before the current build-up, and more than four years after the Australian withdrawal from America's second Iraq War, there was still a large ADF presence in the Middle East – a region where Australian operations were supposedly winding down.

As of early 2014, Australia already had [800 ADF personnel](#) at Al Minhad, providing, command, logistical, and transport support for the diminished but still ongoing Australian operation in Afghanistan, including 400 special forces troops (Operation Slipper), and the long-running Australian Navy western Indian Ocean patrols in the task forces that make up the US-led Combined Maritime Forces (CMF) Combined Task Force (Operation Manitou).¹³

In-country deployment of the 200-strong Special Operations Task Group was stalled for almost two months by the reluctance of the Iraqi government to agree to Australia's proposed agreement to limit Iraqi jurisdiction over the actions of Australian forces. In mid-November, Foreign Minister Julie Bishop returned from a visit to Baghdad, [telling Parliament](#) on November 22nd that 'I was able to reach agreement on the legal framework that will now enable our special forces to be deployed to Iraq to train, advise and assist the Iraqi security forces.' There were, she said, now just 'necessary administrative arrangements to enable the deployment to take place' to be put in place by the ADF.¹⁴

As it turned out, these arrangements took another two weeks to complete, and it was not until November 5th that the ADF's Chief of Joint Operations, Vice Admiral David Johnston was able to say that 'a series of administrative actions that we had to take' were complete. However, said Johnston, 'the government of Iraq has asked that we not reveal the nature of the arrangement between the two countries.'¹⁵

On November 25, Johnston announced that the movement of the Special Operations Task Group had been 'largely completed', with the special forces installed in the 350-acre State Department-managed Baghdad Diplomatic Security Centre – logistics and accommodation hub within the Baghdad Airport precinct retained by the U.S. after the 2011 troop withdrawal.¹⁶

The special forces soldiers will be partnered with Iraqi counter-terrorism forces, and accompanying them to forward operating bases, working in an 'advise-assist' role with the Iraqi special forces down to battalion-level. While 'we're not on patrol with them in the sense of going out to engage directly with ISIL forces', Johnston said, SOTG personnel would carry heavy personal weaponry as and where the deployment of their Iraqi partners dictates. According to Paul Toohey of the Murdoch News Corporation, the SOTG is 'under the leadership of the [2nd Commando Regiment](#)'.¹⁷

As of early December, the main actions in the opening stages of this Australian war have

involved the Air Task Group, currently made up of six F/A-18F Super Hornets, a Boeing E-7A (737) Wedgetail airborne early warning & control (AEW&C) aircraft, and a KC-30A heavily modified Airbus A330 airliner used for air-to-air refueling and strategic transport.

In the first month of Australian air operations in Iraq, the six F/A-18F Super Hornets conducted 89 sorties, dropping 27 laser or GPS guided 500-pound bombs on 14 targets, 11 of which were confirmed destroyed, and the rest damaged.¹⁸ In the first three weeks of November, Australian aircraft went on to release weapons on 20 occasions, including as part of a multinational strike with 20 aircraft attacking 44 targets, coordinating with a large scale Kurdish military force that the Australian commander said resulted in over 100 ISIL fighters killed. Australian forces took 'a command role', leading and planning in a major multinational coalition attack on a bomb factory in a densely populated part of the city of Mosul.¹⁹



[Raytheon - JSOW](#)

Hardened targets would have been attacked with 500 pound bombs known as [AGM-154C Joint Standoff Weapons](#) (JSOWs) costing \$700,000 a piece from [Raytheon](#) (even though the principal design objective of these weapons is to enable high altitude release far from the danger of radar-guided ground to air missiles). When launched from high altitude these bombs glide more than 130 kilometers to their targets, guided by a combination of GPS coordinates and laser designation, with multiple warheads that can be set to detonate sequentially to allow the main warhead to penetrate hardened structures.²⁰ The cheaper (\$25,000) option the Super Hornets based at Al Minhad are equipped with is the GBU-54 Laser Joint Direct Attack Munition (JDAM) made by [Boeing](#).²¹



[GBU-54 Laser Joint Direct Attack Munition \(JDAM\)](#)

The air attack raids in October and November were mainly directed at two target areas in Iraq critical for the possibility of slowing the IS advance.²² 60 kilometers west of Baghdad, IS forces sized control of the massive Fallujah Barrage on the Euphrates River, [first locking the water gates](#) to deprive downstream communities of water, and later [diverting waters](#) leading into the dam, flooding the downstream region and impeding movement of Iraqi security forces.²³ Australian and other coalition aircraft have also been [attempting to break](#) the IS-built berms of sand diverting the river.

Further to the north of the country, the RAAF has been supporting Iraqi government forces attempting to retake the strategically critical industrial city of Baiji on the Tigris, and in particular the [Baiji oil refinery](#), the largest in the country.²⁴ RAAF aircraft dropped more than 20 500 lb bombs on a range of targets around Baiji up to 25 November.²⁵ ISIS took the city on June 12th, and with it, control of the country's principal north-south corridor along the Tigris to Tikrit, but an isolated Iraqi military group retained control of the refinery, despite repeated ISIS attacks.²⁶

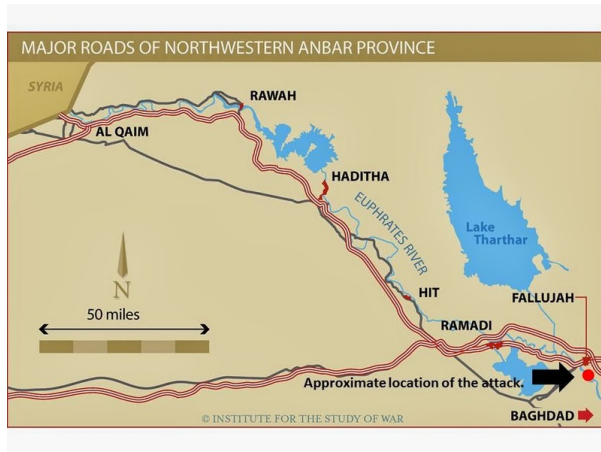


[Fallujah Dam](#)

The eventually successful Iraqi government offensive to retake the city began on October 24th, led by Iraqi Counter-Terrorism Services (ICT) special forces, supported by coalition air strikes. By November 9, most of the town had been retaken, but the siege of the city continued for several more weeks before it was back under Kurdish military control.²⁷

Strategically, this was a significant setback for ISIS, as explained by Harleen Gambhir:

'Baiji is a strategic crossroads that connects ISIS routes across the border to Syria, southwest to Anbar, south to Baghdad, and east to the Hamrin Ridge. Its environs are thus a likely area for ISIS strategic command and control. Since ISIS's June 2014 offensive, the ISIS military stronghold in the historic Za'ab Triangle has provided forward protection to the ISIS political stronghold in Mosul. Equally important, the Mosul-Tikrit highway has served as a central spine of the caliphate, from which ISIS has projected force to Mosul, Hawija, and Tikrit. The ISF and Shi'a militias have thus taken advantage of a critical ISIS vulnerability: peripheral control zones that, when opened, allow the ISF within striking distance of ISIS's interior strongholds.'²⁸



[See here.](#)

By contrast, Admiral Johnston emphasized the economic importance of the victory for Iraq, pointing out the refinery is capable of producing 170,000 – 300,000 barrels a day. However, the Kurdistan Regional Government’s Natural Resources Minister Ashti Hawrami had pointed out in September, well before the worst fighting for the plant, that repairs to that time to bring the refinery back on line would take more than a year.²⁹

Operating out of the Al Minhad Air Base, far to the south of Iraq in the UAE, the KC-30A refueling aircraft, a heavily modified Airbus A-330, has [delivered more than a million kilograms of aviation fuel](#) to RAAF aircraft, as well to French and U.S. aircraft. Each Australian Super Hornet flying on missions from Al Minhad to central or northern Iraq and back could require aerial refueling four times on each flight.³⁰

Asked in early November about the possibility of US planes flying on to operations in Syria after being refueled by the RAAF KC-30A, Admiral Johnston admitted it was quite possible, though he made no comment on the implications of Australia becoming involved in legally unmandated U.S. combat in Syria.

Networked alliance in asymmetrical operation

Tellingly, Vice-Admiral Johnston was most proud of the work of the Wedgetail E-7 airborne early warning and control aircraft, based on a Boeing 737, which he said provides ‘airspace command and control of all Coalition aircraft assigned to operations over in Iraq,’ and is reportedly managing over 80 aircraft on a single mission.³¹ Like the refueling aircraft, it is capable of being employed in operations involving U.S. strikes over the border in Syria. Although in a November 25 briefing Johnston insisted that the Wedgetail is being used for operations ‘only over Iraq’, he had made clear that the Australian contribution ensures that ‘there has been spare capacity that has been able to then be devoted towards the conflict in Syria.’³²

Harvesting the fruits of Australia’s now high level of integration into U.S. military operations built over the past decade or more to establish ‘interoperability’ between the two, the E-7 AEW&C’s work in Iraq [includes](#),

‘the passing of detailed directions that come from the Combined Air and Space Operations Centre, including targeting details. And those targeting details work in a virtual network that includes information passed back to the United States in a live timeframe, back to the Middle East for correlation, and then out to the aircraft live. So when a target arises, or is

seen, a target of opportunity, it can bounce across three-quarters of the globe, and we can be striking that target within about 15 minutes. So it's a pretty incredible network that we have to correlate effects there.'³³

The 'pretty incredible network' Johnston is referring to involves the Australian E-7 aircraft connecting to two components of [U.S. Central Command \(CENTCOM\)](#). Firstly, just southeast of Iraq in Qatar, Al Udeid Air Base hosts the [Combined Air and Space Operations Center](#) (CAOC).³⁴ 'Combined' in US military-speak means it involves U.S. units (in this case the USAF's confusingly named [609th Air and Space Operations Center](#)) cooperating with embedded representatives of 30 NATO and other allies, including 24 Australian personnel normally deployed on four-month rotations.³⁵ CAOC in Qatar monitors and coordinates all regional US and allied air attacks – some 50 a day still in Afghanistan, and now comparable numbers, sure to rise, in Iraq and Syria.³⁶

Secondly, apart from operations involving planned targets, Johnston refers to a rapid process of proposal, discussion and tasking of missions to attack potential targets of opportunity, so-called time-sensitive-targets, involving rapid backwards and forwards consultation between CAOC in Qatar, CENTCOM in MacDill Air Force Base in Florida, with the critical parts passing through the Wedgetail high over Iraq. In many cases, the Wedgetail would be working in tandem with MQ-9 Reaper U.S. and British attack drones and [Global Hawk surveillance drones](#), downloading bandwidth-intensive sensor data, as well as uploaded command and control messages back to the drones.³⁷ [British Reaper drones](#) have also been used in the campaign to recover Baiji, along with Australian Super Hornets.³⁸ Al Udeid's CAOC is hardwired through the Defense Information System Network with trans-Atlantic optical fibre to MacDill, as well as to CENTCOM's two powerful regional computing hubs in Bahrain and Germany, as well as in the US itself.

In this case, this integration of the Australian military as auxiliary forces in U.S. global military operations brings considerable benefits to the United States. In particular, Australian (and other allies on the path to interoperability) aircraft operating in Iraqi air space free up U.S. aircraft to operate over Syria – an illegal step most coalition governments are at present unwilling to take. Moreover, since the aircraft involved are U.S.-built, with U.S.-built communications and computing systems operating according to U.S. protocols and operating procedures, and with Australian crews trained with their U.S. counterparts in Australian air weapons and bombing ranges hard-wired with optical fibre into U.S. Pacific Command as well as Canberra headquarters, there is no loss to the U.S. in military effectiveness. As Australian military and political leaders like to assert, Australia is up there with 'the biggest and the best.'

Yet the interdependence is profoundly asymmetric. The net result of this integration is that Australian forces today can no longer undertake operations like those in Iraq without U.S. approval and without access to U.S. military communications and computing systems. Moreover, a generation of the Australian military is becoming acculturated to a niche role in American imperial interventions, and building a military organisation that can only function effectively in that role.³⁹

Rules of Engagement and civilian casualties

The targets of RAAF sorties in October and early November, Vice Admiral Johnston explained, were Islamic State's 'means of transportation, their heavy equipment, command and control modes, their logistic supply centres.' 'We go', Johnston said 'to enormous lengths to ensure that we have a very good understanding of the collateral damage that may occur from the strikes.'⁴⁰

Johnston was echoing [statements of Australian authorities](#) in earlier Iraq and Afghanistan conflicts that ADF standards for acceptable civilian casualties are higher than those currently employed by the United States military.⁴¹ Throughout post-2000 operations in Afghanistan and Iraq, Australian military and political leaders have maintained that ADF Rules of Engagement in those conflicts have maintained that 'precise knowledge by an adversary of the limitations that have been placed on the use of force by Australian forces could endanger the lives of ADF personnel', and are 'by necessity, protected'. However, in the early stages of the invasion of Iraq in 2003, under what was then known as Operation Falconer, some broad guidelines that appear to have characterised subsequent ADF operations were set out by the Department of Defence, including:

- compliance ('in broad terms') with Australia's domestic and international legal obligations;
- authorization of 'necessary and proportionate lethal force all Iraqi military and paramilitary forces';
- prohibition on attack of 'civilians or other persons protected by the Geneva Conventions, such as those who are incapacitated by sickness or wounding, and are unable to defend themselves, or who have surrendered';
- prohibition on use of land mines and cluster munitions; and
- more stringent standards than those of United States military.⁴²

The secrecy surrounding ADF operations in Iraq and Afghanistan in the past and in Iraq today inhibits verification of these and similar claims, but in 2004 an Australian pilot told the Sydney Morning Herald that 'each of the 14 RAAF Hornet pilots aborted three to four bombing runs because intelligence given at pre-flight briefings did not concur with what they found at the target'.⁴³

In October 2014, the head of the Australian military, [Air Chief Marshal Binskin, said](#) that the Air Task Group commander, [Air Commodore Steven Robertson](#), an experienced Super Hornet pilot, would be based at the Qatar CAOC, and would be responsible for ensuring that RAAF operations conform to the ADF's Rules of Engagement for the region.

'They always have the red card and anyone down the chain, right to the men and women that are on the cockpit of the Hornets, have the ability to play that red card should the situation arise where they're not happy with the targeting or what they're doing, or there's a potential for collateral damage in there.'⁴⁴

As of October 17th, 'the red card' had only been applied on one occasion, and that was a decision by operational headquarters in Qatar, on the basis that 'it now exceeded our risk parameters'.⁴⁵

While it is possible to imagine circumstances where an adversary could take advantage of

precise knowledge of operational guidelines, it is difficult to see much room for IS exploitation of ROEs covering air strikes. The ADF itself has publicly confirmed that the one major constraint that IS could exploit – that is, if IS ground forces were able to see that attacking aircraft are Australian and not American – does not apply, since bombing attacks are conducted at such an altitude that the targets on the ground are rarely aware of the attack until the moment the bombs strike the ground.

The Rules of Engagement under which both the Air Task Group and the Special Forces Task Group operate substantially determine what ADF commanders consider to be acceptable levels of collateral casualties from ADF operations. According to Vice-Admiral Johnston on November 5th, 'there have been no instances I'm aware of that there's been a potential for civilian deaths.'⁴⁶ This is not quite a denial that there have been no civilian deaths, and in fact the [ADF public reports on its website](#) listing daily RAAF sorties in the first month of attacks, were highly uninformative, at most saying RAAF fighter-bombers 'attacked ISIL targets'.⁴⁷

Moreover, as the war has progressed, the amount of information on RAAF airstrikes has dropped dramatically. Limited though they were, the Air Task Group website provided almost daily reports of air strikes between October 1st and November 3rd. However, there were none in the subsequent five weeks to mid-December, despite the fact that in a press conference on November 25th, the Australian commander spoke of a 'high tempo' of air operations, saying that weapons were released on 20 occasions in the preceding 20 days.⁴⁸

Taking the example of the undated November multinational attack on an IS bomb-making factory in a populated area of the city of Mosul, the Director General Air Operations, Air Commodore 'Joe' Vincent Iervasi, outlined the ADF (and coalition) use of target intelligence and surveillance to establish 'a pattern of life to understand who is generally moving around that area': 'And generally speaking, leading up to that particular strike the pattern of life indicated that it was ISIL moving in and around those facilities there. So by extension, it was highly unlikely that there were non-ISIL individuals involved or in the vicinity of those particular strikes.'⁴⁹

While there is no specific reason to challenge the belief of either commander, neither Johnston's nor Iervasi's assertions amount to a denial that there have been no civilian deaths – nor, given the circumstances of the air war, would they be able to do so.

On the evidence of past wars by the U.S. and its allies, independent assessment of government claims of avoidance of civilian casualties is essential for their citizens to be able to have confidence of the true character of the wars conducted in their names. In the current case, the minimal information revealed by the Australian government is slowing to a trickle. In the first month of RAAF Iraq operations from October 1st, the [ADF posted reports on its website](#) almost listing daily RAAF sorties. While the reports were uninformative, at most saying RAAF fighter-bombers 'attacked ISIL targets', even such minimal nods towards informing the Australian public were abandoned. No update of the Air Task Group Operations Timeline appeared between November 3rd and the time of writing December 5th.⁵⁰

In fact, there is already considerable evidence that air strikes by Australia's allies and air strikes and shelling by the Iraqi military are repeatedly causing civilian deaths.

Iraqi media agencies have reported a number of civilian casualties from coalition air strikes. For example, during the month of October, the National Iraqi News Agency reported the following incidents:⁵¹

- 6 October: 'A medical source in Hit announced on Monday the killing of 22 civilians, including 5 women and 4 children, and wounding 43 others, mostly women and children by bombing of the international coalition aircraft the center of the popular market of Hit district, in addition to the bombing of an apartment building inhabited with families. The source told the [National Iraqi News Agency \(Nina\)](#) that the planes of the international coalition did not focus so far in their airstrikes on gatherings of the IS, adding that the building, which was bombed by mistake was just 70 meters far of the IS gathering.' The US military was reported to have rejected the claimed civilian deaths as '[false](#)', adding that it had not seen evidence of any civilians killed.
- 25 October: 'A medical source in Nineveh said on Saturday that a US raid on a stronghold of the IS killed two civilians by mistake. The source told the [National Iraqi News Agency / NINA /](#) that the forensic medicine in Mosul received the body of two civilians were killed by mistake in a US raid in Qayyarah district, southern Mosul.'
- 26 October: 'Ten civilians and 13 elements of the IS were killed in the village of Aionat northwest of Mosul by bombing of the aircraft of the international coalition. A security source told the National Iraqi News Agency / NINA / that the forensic medicine in Mosul received the bodies of ten civilians were killed by mistake bombing of the international coalition aircraft, with killing 13 elements of the IS by those aircraft on the strongholds of the organization in the village of Aionat, 110 km northwest of Mosul.'

Given the highly restricted information published by the Australian and other coalition governments about the bombing attacks conducted by their air forces in Iraq, there is no way of knowing which coalition aircraft were involved in these attacks. But the fact remains that responsible Iraqi journalists, working in highly constrained circumstances, have published these plausible claims.

Moreover, the forces of the government the 'Global Coalition' seeks to support has itself been conducting military operations that have resulted in many deaths of Iraqi non-combatants. In one of the most critical areas of Islamic State's advance in recent weeks, a large number of deaths have been reported as a consequence of Iraqi Security Force artillery shelling and air strikes. In the month of October, 178 Iraqi civilians [were reported](#) killed by government shelling and air strikes, and 285 wounded.⁵² In the first week of November alone, 47 [were reported](#) killed and 128 wounded. Most of these casualties of Iraqi government forces were in the critical region of Fallujah in Anbar province, where Islamic State has been advancing rapidly in the late summer.⁵³ This is despite repeated promises from [Prime Minister Abadi](#) that these highly inaccurate and effectively indiscriminate Iraqi military artillery and air strikes on the Sunni population of the region would be stopped.⁵⁴

Why is there not a Status of Forces Agreement with Iraq?

The reliance of the Australian government on a justification of 'operational concerns' to keep

secret the Rules of Engagement governing the combat activities of Australian bombers and special forces has a measure of plausibility, however exaggerated. The refusal by the government to provide even a summary account of the nature of the 'legal framework' and 'administrative arrangements' agreed between the Australian and Iraqi governments that allow the deployment of the Australian air and ground forces in Iraq is quite different, and raises a number of disturbing legal and political questions about the nature of those secret arrangements.

Agreements of this type are usually known as Status of Forces Agreements, and while they vary in their range of concerns, their fundamental concern is to establish limits on the jurisdiction of the host country over troops deployed under the agreement.⁵⁵

Governments sending military personnel are concerned firstly to limit the exposure of their troops to the legal processes of the country they are defending, and secondly to bolster their own domestic legitimacy by assuring the citizens of their own country that military operations conducted in their name are lawful in the eyes of the host country.

Host country governments usually have the reverse concern, especially where they have had previous experience with foreign deployments. They seek to maximise their own jurisdiction, and to assure their own population that the agreements will provide them with protection from extra-legal operations and activities by foreign troops.

In countries like Japan and South Korea with long standing U.S. military presences the revision of SOFAs written in the past when relations with the U.S. were even more hierarchical than at present is a deeply contentious issue, even amongst conservative supporters of alliance with the United States.

In the past, the need for an adequate and appropriately written SOFA has been a deeply contentious issue in Iraq, and a matter of great concern for both the United States and Australian governments. As the U.S. prepared to withdraw from its occupation of Iraq in 2006-7, it sought to negotiate a binding legal basis for its future relationship with Iraq, including a strong element of protection for whatever forces it chose to maintain there. In the year that followed the signing of a framework 'declaration of principles', there was bitter conflict within the Iraqi government and parliament over a proposed agreement, and considerable pressure from the United States to overcome Iraqi resistance to the terms of the agreement.⁵⁶

Eventually, in November 2008, two documents were signed by the representatives of the two governments: the Strategic Framework Agreement for a Relationship of Friendship and Cooperation between the United States and the Republic of Iraq, and the Agreement Between the United States of America and Republic of Iraq On the Withdrawal of United States Forces from Iraq and the Organization of Their Activities during Their Temporary Presence in Iraq. While dealing with a wide range of issues about the continued U.S. military presence in Iraq, the latter was regarded as a Status of Forces Agreement, in principle to be in force for three years after its ratification.

What is important for current purposes is the process of ratification on the Iraqi side. The Iraqi Constitution of 2005 [specified](#) that approval of such a treaty or agreement was required from three parts of the Iraqi state: the cabinet or Council of Ministers; the pre-eminent legislative body, the Council of Representatives; and the president and two vice-

presidents sitting as the Presidency Council.⁵⁷ The agreements with the United States [were approved by these bodies](#) on 16 November, 27 November and 4 December 2008 respectively.⁵⁸ The agreements entered into force at the beginning of the following year, and expired at the end of 2011.

The Australian 2008 SOFA process

While this result was extremely important for the United States, it was also one about which the Australian government expressed deep concern – albeit, not in public. A cable from the Political Counsellor at the U.S. Embassy in Canberra on 7 February 2008, [released by Wikileaks, reported](#) on the Australian government's concern to get a full SOFA, as expressed to the embassy by David Hallett, Director for Iraq, International Policy Division, Department of Defence:

'According to Hallett, Australia needs a treaty-level agreement for its forces in Iraq, i.e., one requiring consideration by the GOA Parliamentary Joint Standing Committee on Treaties and approval by the National Security Committee of Cabinet. The arrangement must be legally enforceable, not only on Australia but also on Iraq. For that reason, he said, Australia wants to see protections enshrined in Iraqi law. He added Australia is concerned about the length of time it takes for the Iraqi Parliament to pass legislation. Hallett suggested that more limited arrangements that Australia has used in the past, including MOUs, MOAs and exchanges of letters, might not suffice for Iraq, noting that historically Australia has negotiated bilateral SOFAs. ADF forces must have immunity from criminal and civil jurisdiction, with Australia retaining exclusive right to waive immunity.'⁵⁹

At the time Australia was waiting to see how the U.S. negotiations with a recalcitrant Iraqi government would turn out, hoping possibly to piggyback on the more powerful Americans. But by October, the embassy was [reporting](#) that the Australians 'sought a green light from the United States to begin bilateral SOFA negotiations with the Iraqi government'.⁶⁰ By December, the U.S. was [losing patience](#) with the Australian government's conviction 'that in order for any such agreement to be binding, it must be ratified by the COR [Council of Representatives]'. Michael H. Corbin, the senior political advisor in the U.S. embassy in Baghdad recommended the State Department issue a formal demarche – basically one stop before a protest – to the Australian government recommending that it abandon the attempt to get a SOFA approved by the Iraqi parliament.⁶¹

In Baghdad the Iraqi government continued to resist pressures for the Australian SOFA proposal, ultimately declaring it would simply not process any more applications. The Australian government followed the advice in the American demarche and abandoned efforts to obtain a SOFA-level agreement. The Rudd government withdrew all combat forces, and signed a [Memorandum of Understanding](#) with the Iraqi government concerning the temporary presence (until mid-2009) of [some 120 ADF personnel](#) who were embedded or in administrative roles with the remaining United States-led multinational force or with the United Nations Assistance Mission for Iraq ([UNAMI](#)).⁶²

Volte face: in lieu of a SOFA, diplomatic passports for foreign soldiers

The United States and Australia accordingly faced the same problem in mid-2014: how could

they deploy troops who would likely face combat in strife-torn Iraq without the legal protections of a SOFA, given that the political prospects of Iraqi cabinet and parliamentary approval for a negotiated SOFA, with its intimations of diminished Iraqi sovereignty, were almost zero? The solution constructed by the U.S. and then followed by Australia, was to take refuge under the shelter of the intervention as an 'emergency', with its justification by urgency, and with claims that the numbers involved would be small and the duration short.⁶³

After protracted 'sensitive' talks, the U.S. government announced in late June that it had come to an agreement with the Iraqi government, confirmed by an exchange of diplomatic notes, that would give the US military personnel then about to be deployed as advisers, trainers, and targeting aides legal status in Iraq 'similar to those provided for diplomatic and military personnel working inside the U.S. embassy.'⁶⁴ At that time the White House justified the shift from its 2011 concerns for a legally-viable SOFA saying that there was 'a difference between the small number of advisers we're talking about, 300 [now] and the few thousand troops'. By the first week of November, the president had authorized the deployment of 3,100 U.S. military personnel to Iraq, including 820 to guard the U.S. embassy and related facilities, and to secure evacuation routes to the Baghdad airport.⁶⁵

The Australian government pursued a similar path, but with less ability to assuage the sovereignty concerns of the Iraqi government, the process took much longer. As noted, the Australian public was told through September and October that negotiations were proceeding as well as could be expected, given the situation of the newly formed government, with its cabinet still a work in progress. In mid-October the Australian government maintained that all necessary legal arrangements for the special forces deployment were in hand, and all that remained were apparently minor administrative matters.

However, after the issue of the apparent lack of a SOFA was raised on 14 November, the Australian government reversed its position on maintaining the secrecy it claimed had been requested by the Iraqi government on the agreement allowing special forces into Iraq. [News Corp. journalist Paul Toohey confirmed](#) that the Iraqi government had indeed rejected the Australian proposal for a SOFA as 'too great an incursion on their sovereign rights'.

In its place, a Defence Department spokesperson admitted, the Iraqi government had agreed to allow the Australian special forces into Iraq on the basis that each soldier carry an Australian diplomatic passport. Toohey reported that considerable Australian pressure had been exerted to obtain the agreement on the diplomatic passports, which also included 'certain discretionary rights', whose nature was not released.⁶⁶

This end run around both Iraqi constitutional processes and Iraqi reluctance to collaborate in the deployment of foreign fighters is completely outside the normal and expected use of diplomatic passports, particularly in such large numbers, which in any case are certain to increase. It is not clear whether the 400 Air Task Group personnel have also been issued with diplomatic passports, but they are reportedly still based outside Iraq. Nor is it clear whether the 'small contingent' of ADF special forces guarding the Australian embassy in Baghdad are covered by this agreement.

There is good reason for both Australians and Iraqi to be concerned about this unprecedented use of Australian diplomatic passports by 200 elite soldiers deployed into a

combat zone, reasons which are as much political and strategic as they are legal.

This 'solution' is the definition of a bad idea – one that will not provide the legal protection soldiers need when things go wrong, and since the special forces are engaged in anything but diplomatic representation, will degrade the status of Australian diplomatic passports, putting our diplomats at risk in the future.

There are very good prudential and political reasons for fully approved SOFAs, as demonstrated both by Australia's use of them on numerous occasions in the past two decades (including in Afghanistan, Timor Leste, the Solomon Islands, and with the governments of the United States, Indonesia, South Africa, Tonga, Fiji, and Papua-New Guinea⁶⁷) and by the anxiety to acquire one from the Iraqi government both in 2008 and again in 2014. Politically, a properly and appropriately worded SOFA ensures that the host government accepts that the presence of the foreign troops (or police) is constrained in ways acceptable to the host country's citizens – and is prepared to 'own' that foreign military presence.

This is very clearly not the case with the present Iraqi government. The fact that the Iraqi government wanted the non-SOFA arrangement kept secret suggests they know full well that the presence of foreign troops is not acceptable to substantial parts of the Iraqi population the ADF is meant to be defending. This in itself should sound a warning bell about the Abbott government's rush to war.

The fact that the two governments have been caught out trying to do an end run around the Iraqi constitutional requirements for parliamentary approval of the deployment of foreign forces will worsen the mistrust that many Iraqis have shown towards a highly sectarian government and the foreign troops supporting it.

In this situation, a proper and comprehensive SOFA, approved by Iraq's specified constitutional processes, might have provided some legal protection for Australian special forces troops in the event they are involved in actions that result in loss of life or serious wounding of Iraqi non-combatants. The nature of specific 'discretionary rights' attached to the special forces' use of diplomatic passports is far outside the normal and expected use of diplomatic passports, particularly in large numbers, which are highly likely to increase.

Members of the Special Operations Task Group, advisors and trainers or whatever they may be labelled, are certain to find themselves in combat at some point, and with a high risk of non-combatant Iraqi casualties. Use of diplomatic passports to protect ADF soldiers from Iraqi legal jurisdiction at such points – or from antagonism by those immediately affected – or from the wider Iraqi public, is likely to be politically ineffective and counter-productive.

Indeed the whole approach to the legal basis on which the ADF has been deployed to Iraq, like so much of the American-led war itself is fundamentally counter-productive, and shows a large measure of disregard, if not contempt, for both Iraqi sovereignty and for the right of Australians to know the basis on which our forces are fighting in foreign wars. 15 December 2014

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